

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ELIZABETH CABITLA BALLESTEROS :
Plaintiff, :
: :
v. : C.A. 11-152 ML
: :
ARIF AL ALI and SAMAH ALHARMOODI :
Defendants. :
:

DEFENDANT ARIF AL ALI'S MOTION TO STAY

Pursuant to 18 U.S.C. §1595 and the general equitable powers of the Court, the Defendant, Arif Al Ali ("Al Ali"), moves this Court to issue an order staying this action during the pendency of the criminal action against him. Al Ali relies on the attached memorandum.

Arif Al Ali requests a hearing on this motion.

ARIF AL ALI
By his Attorney,

/s/ Robert Clark Corrente
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Dated: May 20, 2011

CERTIFICATE OF SERVICE

I, Robert Clark Corrente, certify that this document has been filed through the ECF system and is available for viewing and downloading from the ECF system. I also certify that this document has been served by electronic mail to Plaintiff's counsel, Samuel C. Bodurtha, and Plaintiff's Of Counsel, Ivy O. Suriyopas.

Dated: May 20, 2011

/s/ Robert Clark Corrente

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UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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|----------------------------------|---|----------------|
| ELIZABETH CABITLA BALLESTEROS | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | C.A. 11-152 ML |
| | : | |
| ARIF AL ALI and SAMAH ALHARMOODI | : | |
| Defendants. | : | |

**MEMORANDUM IN SUPPORT OF
DEFENDANT ARIF AL ALI'S MOTION TO STAY**

Pursuant to 18 U.S.C. § 1595 and the general equitable powers of the Court, the Defendant, Arif Al Ali ("Al Ali"), moves this Court to issue an order staying this action during the pendency of the criminal action against him.

Plaintiff has brought various claims against Al Ali, including claims under the Trafficking Victims Protection reauthorization Act (18 U.S.C. §§ 1581, et seq.), specifically, claims for involuntary servitude under 18 U.S.C. § 1584, forced labor under 18 U.S.C. § 1589 and trafficking with respect to peonage, slavery, involuntary servitude and forced labor under 18 U.S.C. § 1590. Section 1595(a) of the Act allows an alleged victim of violations under specified sections of the statute to bring a civil action against the alleged perpetrator in an appropriate district court.

Section 1595(b)(1) further provides that “[a]ny civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.” (emphasis added).

The United States has brought criminal charges against Al Ali arising out of the same occurrence which gives rise to this action. United States v. Al-Ali, 1:11-cr-00051-ML-LDA. Specifically, the indictment charges that Al Ali (1) “did knowingly and with intent to defraud, recruit, solicit and hire a person outside the United States for purposes of employment in the United States by means of materially false and fraudulent pretenses, representations and promises regarding that employment” in violation of 18 U.S.C. § 1351, and (2) “did knowingly and willfully make a materially false and fraudulent statement and representation by presenting to Special Agents of Immigrations and Customs Enforcement a document representing that he had paid all employment wages for the time period July 2010 through July 2011,” in violation of 18 U.S.C. § 1001(a)(2) and (3).

The claims brought by Plaintiff under 18 U.S.C. §§ 1584, 1589 and 1590 all arise from the same alleged conduct or occurrence for which Al Ali is being prosecuted criminally. Plaintiff alleges that Al Ali “knowingly obtained the labor and/or services of Plaintiff by means of a scheme, pattern, or plan intended to force Plaintiff to work excessive hours, without pay, and beyond the terms and condition of the agreement” (Complaint ¶ 41), “knowingly recruited, transported and obtained Plaintiff for labor

and services for the purpose of subjecting her to involuntary servitude, debt bondage or slavery" (Complaint ¶ 49), and "knowingly and willfully brought Plaintiff to the United States to be held in a condition of involuntary servitude." The central issue in both the criminal case and in this case is whether Al Ali failed to pay the Plaintiff.

Because Plaintiff's claims under 18 U.S.C. §§ 1584, 1589 and 1590 arise from the same alleged core facts, the prosecution of those claims *must* be stayed during the pendency of the criminal action against Al Ali, by the express terms of 18 U.S.C. §§ 1595(b)(1). Although Plaintiff has asserted seven other claims in addition to her claims under the Act, all of these claims arise from the same core facts. Al Ali submits that the entire action should be stayed. Otherwise, if Plaintiff were to proceed with prosecution of her claims on the other seven counts while the claims under 18 U.S.C. § 1595 were stayed, it would create the need to go through the entire discovery process twice.

Accordingly, Defendant Arif Al Ali requests that this Court grant this Motion and stay this action until the criminal proceedings against him are resolved.

Arif Al Ali requests a hearing on this motion.

ARIF AL ALI
By his Attorneys,

/s/ Robert Clark Corrente
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Dated: May 20, 2011

/s/ Robert Clark Corrente

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